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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,908	01/25/2001	Naoki Matsuhira	FUJY 18.257	5311
7590 08/19/2005 Katten, Muchin, Zavis & Rosenman 575 Madison Ave New York, NY 10022-2585			EXAMINER SHEW, JOHN	
			ART UNIT 2664	PAPER NUMBER

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/769,908	<b>Applicant(s)</b> MATSUHIRA ET AL.	
	<b>Examiner</b> John L. Shew	<b>Art Unit</b> 2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/19/2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-31 is/are allowed.
- 6) ☒ Claim(s) 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/25/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's arguments with respect to claim 32 have been considered but are moot in view of the new ground(s) of rejection.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eriksson et al. (Patent Number 6243384) in view of Olson et al. (Patent Number 4679189).

Claim 32, Eriksson teaches a communication device for selecting a route of a packet (Abstract lines 1-4) referenced by the ATM switching node associating a connection request with corresponding routing information, comprising a first routing unit selecting a route which is not changed by a change of network topology (FIG. 1, column 2 lines 44-54, column 3 lines 16-18, column 5 lines 36-40) referenced by the manual operator input of routing information to a Static Table 90, for guaranteeing a communication quality of the packet (column 2 lines 28-33) referenced by the selection of the path

being based on the topology database factor of quality of service, and a second routing unit selecting a route for securing reachability of the packet (FIG. 1, column 5 lines 53-67, column 6 lines 1-2) referenced by the consolidated tables 80A and 80B which are dynamically updated by the PNNI protocol ensuring reachability by update of the system topology, the route of the packet is selected by use of one of said first routing unit and said second routing unit in accordance with a predetermined condition (FIG. 1, FIG. 7, column 9 lines 4-30) referenced by Table Maintenance 78 which handles table updates via manual operator input through the static table or automatic PNNI updates through the inactive consolidated table followed by a predetermined merge to the active table. Eriksson does not teach wherein with respect to forwarding packets a packet route selected by a second routing unit is used when a failure of the packet route selected by a first routing unit occurs.

Olsen teaches wherein with respect to forwarding packets (FIG. 1, column 2 lines 23-26) referenced by the alternate routing arrangement for a packet switched network, a packet route selected by said first routing unit is used when a failure of a packet route selected by a first routing unit does not occur (FIG. 4, column 2 lines 48-59, column 4 lines 6-17, column 13 lines 33-41, column 14 lines 55-66) referenced by the use of algorithm 1 using the fixed routing of the static information stored at each packet, and the packet route selected by a second routing unit is used when a failure of the packet route selected by said first routing unit occurs (FIG. 6, FIG. 17, column 4 lines 6-19, column 15 lines 3-34) referenced by the use of algorithm 2 which applies on routing

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failure and uses table of primary Route-1. The use of different algorithms reflects different operations and thus different routing units for each algorithm respectively. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the alternative routing arrangement of Olson to the consolidation routing table address analysis system of Eriksson for the purpose of identification and selection of the preferred exit paths at each node of the network be done statically by the network designer or system administrator in such a way that security constraints are easily accommodated as suggested by Olson (column 2 lines 43-47).

***Allowable Subject Matter***

1. Claims 1-31 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Shew whose telephone number is 571-272-3137. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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